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ON THE TRANSFER OF TECHNOLOGY

NEGOTIATIONS ON AN INTERNATIONAL CODE OF CONDUCT ON THE TRANSFER OF TECHNOLOGY

Report by the Secretary-General of UNCTAD

Attached is the report by the Secretary-General of UNCTAD on the above subject, as submitted to the General Assembly at its forty-eighth session.

GE.93-53156 (E)

INTRODUCTION

1. This report has been prepared pursuant to General Assembly resolution 47/182 of 22 December 1992, which requested the Secretary-General of UNCTAD to continue his consultations with Governments on the future of action on an international code of conduct on the transfer of technology.

I. CONSULTATIONS AND RECENT DEVELOPMENTS

2. The background to the negotiations on an international code of conduct on the transfer of technology and consultations carried out by the Secretary-General of UNCTAD since the eighth session of the United Nations Conference on Trade and Development have been covered in the previous report of the Secretary-General of UNCTAD to the General Assembly, at its forty-seventh session (TD/CODE TOT/58). However, it should be recalled that in reviewing the work carried out during the negotiations on an international code of conduct on the transfer of technology as well as the results of consultations, particularly those held in 1991 on the elaboration of the terms of reference of a possible intergovernmental group of experts to prepare the ground for the resumption of negotiations, the United Nations Conference on Trade and Development recognized that "conditions do not currently exist to reach full agreement on all outstanding issues in the draft code of conduct". The Conference affirmed that "should Governments indicate that there is the convergence of views necessary to reach agreement on all outstanding issues" in the draft code of conduct, the Trade and Development Board "should re-engage and continue its work aimed at facilitating agreement on the code". 1/

3. Mention should be made of some recent developments which could be of relevance to the future of the negotiations on the draft code. Pursuant to the Cartagena Commitment, the Trade and Development Board established an Ad Hoc Working Group on Interrelationship between Investment and Technology Transfer. At its first session, held in January 1993, the Working Group adopted a comprehensive work programme which aimed at the examination of a number of issues dealing with investment flows, transfer of technology and competitiveness; technological capability-building in developing countries, particularly the least developed countries, and in countries undergoing the process of transition to market economy; and transfer and development of environmentally sound technologies.

4. The range of elements under each of these issues includes, inter alia, commercial channels for technology transfer, the framework of such transfer, including the protection of intellectual property rights; actions that countries may take to increase their capacity for the creation, adaptation and upgrading of technology in order to promote investment and technology flows; policies and mechanisms for facilitating technology transfer and cooperation between and among firms, R & D institutes and universities; policies and measures for the promotion, transfer and diffusion of environmentally sound technologies.

5. By discussing the above issues and analysing relevant empirical evidence, the Working Group will "examine and encourage new initiatives and exchange of experiences on investment and technology policies that are conducive to

overcoming constraints and facilitating technology transfer through investment and the generation, transfer and diffusion of technology". 2/ The outcome of this work "is envisaged as a consensus-building and action-oriented process and as a major report on investment and technological capability-building and international competitiveness in the process of economic development". 3/

6. In view of the range of issues under consideration by the Ad Hoc Working Group, its final report will have a bearing on the future course of action that Governments may wish to follow on the draft code of conduct. Therefore, the nature of the deliberations and discussions as well as a clearer understanding of current developments in the transfer of technology process - including main factors and agents that are involved in the transfer of technology particularly to developing countries - would contribute to a better perception of the type of initiatives Governments might wish to take at this juncture. It is the view of the Secretary-General of UNCTAD that it is premature to pursue consultations with Governments on the future course of action on an international code of conduct prior to the in-depth consideration of issues being undertaken in the framework of the Ad Hoc Working Group on Interrelationship between Investment and Technology Transfer.

II. CONCLUSION

7. In light of the above developments, and taking into account the most recent views of Governments on the outstanding issues, 4/ the Secretary-General of UNCTAD proposes to undertake consultations on the code of conduct after the completion of the activities of the Ad Hoc Working Group and to submit to the General Assembly, at an appropriate time, a report for further action by the General Assembly on the negotiations on an international code of conduct on the transfer of technology.

Notes

1/ See A New Partnership for Development: Cartagena Commitment (TD(VIII)/Misc.4) para. 173.

2/ Terms of reference of the Ad Hoc Working Group on Interrelationship between Investment and Technology Transfer. Trade and Development Board Decision 398 (XXXVIII).

3/ See report of the Ad Hoc Working Group on Interrelationship between Investment and Technology Transfer on its first session. (TD/B/39(2)/18 - TD/B/WG.5/4), annex I, para. 2.

4/ See TD/CODE TOT/58, annex.